

RESOLUTION NO. 74396

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ ORDERING THE REORGANIZATION OF CERTAIN UNINHABITED TERRITORY DESIGNATED AS MCKEE NO. 134, SUBJECT TO LIABILITY FOR GENERAL INDEBTEDNESS OF THE CITY, AFTER FINDING PROTESTS INSUFFICIENT TO TERMINATE SUCH PROCEEDINGS.

WHEREAS, a petition for the annexation of certain territory to the City of San José and detachment of said territory from Central Fire Protection, Area No. 01 (Library Services) County Service, County Lighting County Service, and County Sanitation District 2-3 Service Districts, consisting of 1.33 ± acres on the east side of North White Road, approximately 100 feet southerly of Kentridge Drive (APNs 599-01-091 and 599-01-092) has been filed by Timothy Chen; and

WHEREAS, the distinctive short form designation of the territory proposed to be reorganized is **McKee No. 134**; and

WHEREAS, the City of San José, by its Resolution No. 74345, adopted on May 6, 2008, duly initiated reorganization proceedings for annexation and detachment of certain uninhabited territory gave notice of hearing on the proposed reorganization and written protests in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the Council of the City of San José was duly designated as the conducting authority for further proceedings to reorganize the territory described therein by said Resolution; and

WHEREAS, said territory is uninhabited and not all land owners of land included in the proposal consent to this annexation; and

WHEREAS, Section 56757 of the California Government Code states that the Local Agency Formation Commission shall not review an annexation proposal to any City in Santa Clara County of unincorporated territory which is within the urban service area of the city if initiated by resolution of the legislative body and therefore the City Council of the City of San José is now the conducting authority for said annexation; and

WHEREAS, the reason(s) for the proposed reorganization, as set forth in the City's resolution initiating reorganization proceedings, is to facilitate subsequent

development for residential uses; and the following special district would be affected by the proposed annexation: Central Fire Protection, Area No. 01 (Library Services) County Service, County Lighting County Service, and County Sanitation District 2-3; and

WHEREAS, annexation would provide for the use of City Services; and

WHEREAS, the City's Resolution No. 74345 fixed June 3, 2008, at 7:00 p.m., in the Council Chambers of the City of San José, City Hall, 200 East Santa Clara Street, San José, California, as the date, time and place said Council would conduct a hearing on protest(s) against said reorganization from any owner of land within the territory; and

WHEREAS, in accordance with government Code Section 57025 (a and b) and Section 57026, the City Clerk of the City of San José has provided mailed notice of the hearing on the reorganization and notification of their eligibility to protest this city-initiated proceeding with instructions on how to prepare a valid, written protest; and

WHEREAS, the City of San José has conducted a public hearing on the reorganization in accordance with Section 57050 of the California Government Code, to accept protest, objections or evidence which is made, presented, or filed; and

WHEREAS, the City of San José, at the close to the public hearing, intends to determine the value of the written protests in order to take the appropriate action on the reorganization; and

WHEREAS, the regular County assessment roll is utilized by this City; and

WHEREAS, land and improvements within the territory shall be liable for the general indebtedness of the City of San José existing at the time of annexation; and

WHEREAS, a Negative Declaration was prepared for a residential project on that certain portion of the subject territory comprising approximately 0.98 acres (APN 599-01-091) under File No. PDC07-041, said Negative Declaration became final on November 14, 2007, and this Council has considered and approved said Negative Declaration prior to taking any approval actions on this reorganization; and

WHEREAS, the environmental impacts of a project on the approximately 0.31 acres remaining of the subject territory (APN 599-01-092) were addressed under that certain "San José 2020 General Plan" Environmental Impact Report, and Resolution

No. 65459, which resolution became final on August 16, 1994, and this Council has considered and approved said Environmental Impact Report prior to taking any approval actions on this reorganization; and

WHEREAS, the following facts pertain to the findings required by the Council in accordance with Government Code Section 56757:

1. The unincorporated territory proposed for reorganization is within the City's Urban Service Area, as adopted by the Santa Clara County Local Agency Formation Commission.
2. The County Surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the Santa Clara County Local Agency Formation Commission's road annexation policies.
3. The proposal does not split lines of assessment or ownership in that all affected parcels are being organized in their entirety.
4. The proposal does not create islands or areas in which it would be difficult to provide municipal services in that the completion of reorganization proceedings would result in the reduction of a County "pocket" of unincorporated territory.
5. The proposal is consistent with the City's adopted General Plan in that existing and future urban development should be located within cities.
6. The territory is contiguous to existing City limits.
7. The City has complied with all conditions imposed by the Commission for inclusion of the territory in the City's Urban Service Area:
 - A. No such conditions imposed.
8. The pre-zoning on the subject territory is A(PD) Planned Development zoning designation on a certain portion (APN 599-01-091) and R-1-8 Single Family Residence zoning designation on the remaining portion (APN 599-01-092). The City Council on December 4, 2007 (for APN 599-01-091) and April 22, 2008 (for APN 599-01-092) enacted ordinances so pre-zoning the subject territory.

WHEREAS, evidence was presented to the City Council at the City Council's public hearing(s) on this matter.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF SAN JOSE HEREBY FINDS:

1. That it is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated “McKee No. 134”, more particularly described in Exhibit “A” and more particularly shown upon that certain map attached hereto as Exhibit “B,” both of which are attached hereto and incorporated herein by this reference;
2. That the following findings are made by the City Council of the City of San José:
 - a. That said territory is uninhabited and comprises approximately 1.33 acres.
 - b. That the annexation is consistent with the orderly annexation of territory within the City’s urban service area and is consistent with the City policy of annexation when annexed (providing City services).
 - c. That the City Council has considered the environmental clearance prepared for this proposal and has determined that the environmental impacts of this project are discussed and disclosed in the Negative Declaration for File No. PDC07-041 adopted on November 14, 2007 and the San Jose 2020 Environmental Impact Report and related City Council Resolution No. 65459 which became final on August 16, 1994; that this proposal is in compliance with the California Environmental Quality Act of 1970, as amended, and the Council has considered and approved said Negative Declaration and said Environmental Impact Report and their application to this project.
 - d. That the City Council on December 4, 2007 enacted an ordinance pre-zoning a certain portion of the subject territory with A(PD) zoning designation (APN 599-01-091) and on April 22, 2008 enacted an ordinance pre-zoning the remaining portion of the subject territory with R-1-8 Single Family zoning designation (APN 599-01-092).
 - e. That the territory is within the city urban service area as adopted by the Local Agency Formation Commission of Santa Clara County.
 - f. That the County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission’s road annexation policies. The City shall reimburse the County for the actual cost incurred by the County Surveyor in making this determination.
 - g. That the proposed annexation does not create islands or areas in which it would be difficult to provide municipal services.
 - h. That the proposed annexation does not split lines of assessment or ownership.
 - i. That the proposed annexation is consistent with the City’s General Plan.

- j. That the territory to be annexed is contiguous to existing City limits.
- k. That the City has complied with all conditions imposed by the commission for inclusion of the territory in the City urban service area.
- 3. That no valid written protest to the reorganization proceedings was received by the Clerk of the City of San José and the value of those protests submitted prior to the close of the public hearing constitute 0% of the assessed land value in the affected territory.
- 4. Hereby orders the territory designated **McKee No. 134** reorganized and organized to include the following changes of organization: (a) the designated territory **McKee No. 134** shall be annexed into the City of San José; and (b) the following districts are detached: Central Fire Protection, Area No. 01 (Library Services) County Service, County Lighting County Service, and County Sanitation District 2-3.
- 5. That said annexation is hereby ordered without election pursuant to Section 57075 and is subject to the following additional terms and conditions: none.
- 6. That the exterior boundaries of the territory reorganized shall be all that real property in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein.

BE IT FURTHER RESOLVED that upon completion of these reorganization proceedings, the territory reorganized will be taxed on the regular county assessment roll, including taxes for existing bonded indebtedness.

ADOPTED this 3RD day of JUNE, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CORTESE, LICCARDO,
NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED.

NOES: NONE.

ABSENT: CONSTANT.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

Not100%Ord